

AML ADVISORY COMMITTEE

Minutes

Semi-Annual Meeting

September 3, 2008

A regular meeting of the AML Advisory Committee was called to order at the Powell River Project Pavilion at 3:00 p.m. pursuant to the notice sent to all committee members.

The following members and visitors were present: Jerry Baird, Alpha Natural Resources; Eddie Hannah, Lonesome Pine Soil and Water; Phil Shelton, citizen; Ian Dye, Office of Surface Mining; Glenn Graham, Lonesome Pine Soil and Water; Martha Podren, TVA; Jeff Linkinhoker, U. S. Army Corps of Engineers; Roger Williams, Richard Davis and Randy Casey, Department of Mines, Minerals and Energy.

Members absent: Carol Doss, Upper Tennessee Roundtable; and Gerald Ramsey, Consolidation Coal Company.

Jerry Baird presided, Roger Williams recorded the proceedings of the meeting, and Susie Garrett transcribed the minutes. A motion was made by Phil Shelton to accept the minutes, seconded by Eddie Hannah. Minutes of the May 28, 2008 meeting were approved unanimously with no changes.

DMLR PROGRAM UPDATE – Roger Williams

There are a lot of things going on with the extension of the program. One of the things DMLR has done in anticipation of the future of the AML program in Virginia is that we have done a realignment inside AML. One of the big changes is that we now have a project engineer, which is Randy Casey. We are going to be expanding some staff. We will recruit an engineer and an engineer technician or GIS Cad person to assist with designs and with AML inventory work. Hopefully, we will be advertising these positions shortly. We hope to have them on board before the end of the year. Also, Richard will be reporting to Randy. Richard will be heading up a project development group and will supervise a realty position and three development staff. We are going to have a full time real estate person. One of our former AML inspectors, Earl Mumpower, which is now in the combination AML/Enforcement group, has agreed to accept the position. Earl has a lot of experience in real estate, as well as AML. The real estate issues will be a major part of getting projects developed and out the door. I will be assuming a new role, as an overall administrator and partnership coordinator on water projects and large partnership projects.

Acid Mine Drainage Projects

Jeff Linkinhoker and I have been working together on the acid mine drainage problem in the Powell River since 1997. On June 23, we jointly held a celebration at the

completed Link Branch site. It was a dedication ceremony on the Ely Creek and Puckett Creek sites. There were a number of partners involved in this large project. We got a lot of good press on this including an article in the U. S. Army Corps District Digest.

Prior to the dedication ceremony, we had a tour for some of our county officials. The former chairman of the Lee County Board of Supervisors, Claude Ray, asked us to set up a tour for the Lee County Board members to show them the completed project. Lee County owns the land where all of these sites are located. There was a good news article on this including pictures in late May. The most recent project in Lee County is the main Lick Branch site, which is now completed. The final cost including Big Branch is \$1.6 million.

We did a simplified water chemistry chart on all the sites, which shows the water chemistry changes. Eventually, we will see the aquatic recovery. We are striving for a true ecosystem restoration. We are continuing to do water monitoring and aquatic sampling. We hope to show some positive results in the aquatics soon. These two watersheds were the worst we have encountered so far.

We are continuing to study Straight Creek and many other streams on up this watershed that have acid mine drainage. Right now there is no construction money lined up for future construction work, but we are funded with some feasibility studies. Jeff Linkinhoker advised that Straight Creek, Jones and Cox Creeks are in the next feasibility study, which has been approved. Money is hard to come by for these types of programs.

Since this is election year, we will probably operate under a continuing resolution as far as budget authority this fall. In the resolution, they have increased funding for the Title IV and Title V programs; about \$2 million more for the Title V regulatory site due to some increased costs. Some of the programs were struggling with some uncontrollable costs as far as salary and energy costs. They are also having to increase the monies because of the mandated increases in the AML Program, which is scheduled to go up anywhere from \$14 to \$22 million.

The FY 2009 budget has the last year of emergency funding that we know of, although there is a lot of maneuvering going on by both states and the feds on whether to have a separate funding package for emergencies with the increased funding. OSM had proposed to basically defund as a separate appropriation the emergency program. In Virginia, we operate this program and a part of our grant is emergency funding, but in big states like Pennsylvania and Kentucky, OSM operates the emergency program with their own federal funding. With the increases, OSM has proposed to shift that responsibility back to the states and downsize on the federal side to defund it. With the increased funding, OSM feels the states can handle it. Many States are not happy with this approach and feel like it is a cut of what they anticipated getting, and that they now will have to divert funds that they anticipated receiving as a state share of funds for regular state projects. They will now have to divert those funds or a significant portion of those funds to emergency work. They have petitioned their congressmen and legislators to overturn this administrative decision.

There has been a lot of rulemaking by OSM on the AML program. In association with that, they have also issued a number of new directives. They have also started an inventory modernization effort. They have hired a contractor to “modernize the Abandoned Mined Land Inventory System”. Richard Davis and I have set in on meetings and provided comments. They are also looking at doing some GIS mapping as a part of this although that is behind right now. The database needs reworked. It is on an antiquated database that is on an older software system. They are working to migrate it over to Microsoft so it will be compatible with the different states and other systems that are out there.

Some of the changes that I think we will see are on the priorities. It will give us some more opportunities, such as on the Priority 1 and 2’s; we will have some flexibility to add in more Priority 3 work. There are two avenues to do this. There is a provision that we can now reclassify some that we considered as Priority 3’s in the past. If they are adjacent to a Priority 1 or 2, they can be reclassified or funded as a Priority 1 or 2. We will be able to pull this together for a larger project and fund it as more of a complete watershed type project. Also, if there is a Priority 3 that is not adjacent to that area, we can use another provision that says we can also do Priority 3’s in conjunction with a Priority 1 or 2. We will have the authority to pull in a Priority 3 portal or other feature as long as the overall project reflects the priorities in the Act, the Priority 1 and 2’s. In the past, with funding being tight we have chosen some fairly small portal projects – some less than \$50,000. Administratively, they are expensive to do. If we can expand the projects it is more cost effective for us to get some bigger projects.

The states are not pleased with the tone OSM has taken with some of the regulations. The states feel they read more like enforcement regulations on an industry rather than on a partnering basis with states. This is one of the comments from both the IMCC and the National Association of Abandoned Mine Land Programs. We recently commented on the proposed` AML rules. We felt they did not reflect the tone and historical partnership and collegiate approach to these projects that we have had in the past.

Park Avenue Highwall Project

There are two big projects we are trying to get off the ground. Late last year, we had a large boulder come off a highwall going into the City of Norton. It landed in the main street going into Norton. There is an abandoned highwall that has quite a few rocks hanging. There is a sidewalk below this that school children use to walk to the Norton Elementary School. The rock actually bounced over this sidewalk. Luckily, no one was walking there and there weren’t any cars on the road at the time. We talked with the city and we have developed the Park Avenue Highwall Project. This is a combination project that will deal with the AML highwall and try to get the city a safe sidewalk. The city was able to obtain some grant money through the Virginia Department of Transportation to do the sidewalk. To build a safe sidewalk, the abandoned highwalls will have to be dealt with. We are going to work with the city to coordinate all these activities into one project.

We are partnering with the city now to do a preliminary engineering report to come up with some options to take care of these hazards. Three Requests for Proposals were submitted last week. We will evaluate these to see if we need to re-advertise to see if we can get more participation. It will be a tricky project to try to deal with; the utilities, the highways, the sidewalk to school, plus it is highly visible. Once we take the vegetation off to fix the highwall it will drastically affect the looks to the entrance of the city and the city is concerned about that as we are. We are hoping to get an engineering firm that could come up with some creative ideas on landscaping and revegetation, so that we can not only do a safety project, but have a visually attractive project for the city. We hope to have this launched by the first of next year with a final design by late next year, and maybe construction the following year – 2010.

Grundy Regional Airport

Another project we are excited about that is a work in progress is the Grundy Regional Airport. It is an abandoned airport now. There has been a renewed interest in trying to work this site with Alpha Natural Resources to do some major rework of the plateau. We have looked at it from an abandoned mine land site. It has about 17,000 feet of abandoned highwall. We have had meetings with some of the town officials. The town controls the property and the county is also involved. The current airport is under a town airport commission and the new Grundy Regional Airport Commission will have to be established by law. This is the group that will need to sign the agreements and work with the parties to accomplish what we would consider as one of the AML Enhancement projects where we actually go in and remove some recoverable coal and use that to offset the cost of the construction. This area has been heavily stripped and underground mined but there is a fairly significant amount of remnant coal that could be used to offset the cost of doing the reclamation, and it would offset our cost of trying to do just the basic highwall backfill of the 17,000 feet of highwall. There are some houses that are located in fairly close proximity to the highwall. It is a rather large project, but one that has a lot of support at both the regional and the local levels.

According to the information we have, Congressman Boucher has assured that if they can get the site prep done there will be money through the Federal Aviation Administration for the actual construction of the airport, i.e., the runway, lights, terminal. The big problem is that they have to get the site prepped, built and they are looking at an around 6,000 foot runway. There are some sponsors of the legislation to form a Regional Airport Commission. This will probably occur during the upcoming session of the General Assembly. Once that is established, they will be in a position to have a governing body that can deal with us and the other partners. We are trying to do this while Alpha still has equipment in the area. There is a limited window of opportunity to make this a reality. There is almost unanimous support for the project, but it will be a difficult project administratively to put together.

Public Water Projects

Another area that continues to be a big part of our program is the public water supply projects. I am going to meet tomorrow, 9/04, with the people from Tazewell County. We are trying to get water to the Horsepen area and to Hurly, in remote Buchanan County.

One of the things being considered for the Hurley section is actually creating a new water source out of the mines at Harman. This is being actively looked at and we are currently looking at that within the next four years we are hopeful that we can fund most of the remaining AML water projects that we know of with a lot of AML money. This fall we will receive proposals from the 2009 funding. Right now we have two projects on the drawing board – the Horsepen project and another project that is basically going to extend water from the Haysi community over toward Honaker. It will go up to Council in Buchanan County. It will be a joint project with Buchanan and Dickenson Counties. This will be a million dollar plus project and the Horsepen project may be a million dollar plus project, also.

In 2010, we hope to begin funding the first phase of the Hurley system. That will be an extension of water line. We expect it to go in three phases. It looks to be a \$15 million dollar project to get water to Hurley. All of this will come from the John Flannigan reservoir. Phase II, we will develop an alternate water source in Harman to start feeding into that system. The county owns some property in that area at the mouth of Convict Hollow. They are talking about building a water plant and piping the raw mine water down to that location and then have a backup supply to feed into the Hurley system and a backup system for the entire Buchanan County system other than the John Flannigan reservoir. The problem is the main feeder line that was put in from the Flannigan to Buchanan County is in horrible shape. Accountability of water is down as low as 50% on that line. No agency wants to fund the rehab of these old trunk lines.

Water continues to be a major part of the AML program. We are looking at a strategy to get all the people water as quickly as possible. We have talked to the Buchanan County folks and Thompson and Litton Engineers. We have an aggressive schedule. They are going to go ahead and have the preliminary engineering reports done and the design done so that when we start one phase, by the next year they will have that ready for bid. Each year we will build a system and will have the design for the next phase, so as soon as they get the money they can go out to bids for construction of the next phase.

In response to a question asking if new surface mining activity in the old Harman mine area could possibly redirect water that is charging the old mine, Roger said it probably wouldn't due to the extensiveness of the old Splashdam mine. There is not a lot of surface mining activity planned in the Convict area.

Richard Davis

A question was asked about the chestnut trees that were planted. Richard Davis said five American Chinese Backcross seedlings were planted on Arbor Day. At the end of May they were still doing okay. AML also set out 500 to 600 American Chestnut seedlings. These were the pure American seed from forests in Wisconsin. There is about a 50% survival on these. They could very well grow for three years and then succumb to the blight, but the idea behind that, which is called Operation Springboard, is to get chestnuts out in the ground now to see how they're going to survive on mined land, so that when the American Chestnut Foundation has a good supply of the backcross chestnut seedlings, we'll know how to get them started on mined land. Some of the seedlings were set out on an abandoned mined land site two miles west of here and Virginia Tech set out a number on some of their research area this spring.

Richard presented a slide show on the AML inventory on some of the projects DMLR will be looking at over the life of the AML program. He said DMLR has a good problem. How do we spend \$6-\$9 million a year? We've never had this kind of money before to spend on AML projects. Spending all this money is the biggest task DMLR has ever had. The unfunded Priority 1's and 2's is around \$112 million. These are high priority human health and safety features that exist in the AML inventory. There are over \$325 million worth of AML features that are unfunded. It is largely Priority 3 highwalls. A Priority 3 highwall is a highwall that we would see out in the woods that would not be impacting human health and safety and would not be impacting aquatic resource. Priority will be given to abandoned mine lands in the Clinch and Powell River watersheds because of their biodiversity and their critical habitat and the number of threatened and endangered species. In the Clinch Powell watershed we will particularly look at TMDL streams, streams that are 303d listed as impaired and focus on restoring those watersheds.

Under the AML reorganization, Bruce Miles, Bob Cumbow and Lawrence Kiser will be working under Richard and will focus on project development. They will go out and identify projects, advance the projects, and work with OSM to get the authorization to proceed. Randy Casey will then get the engineering design, either in-house or through a consultant. Randy will then give it to contracting officers.

The field staff will be encouraged to give increased emphasis on being observant of AML features. There are AML features that have never been documented in our AML inventory. We need to be knowledgeable of where additional AML features are. We will also implement electronic projects to the extent possible. We will work with OSM to see what AML can do to have everything electronic up to the point where we need the actual signatures.

The AML secretary will be more involved in the environmental consultation process, tracking the comments we get from state and federal consulting agencies. We will be moving to a requirement for our field staff to get GPS coordinates for inventory additions through grants we have obtained largely from OSM. We have spent millions of

dollars mapping underground works, so we need to go to the same lengths to map all our AML works. We will be looking at counties outside of Southwest Virginia in order to spend all this money. We will have to look at the valley coalfields in Montgomery and Pulaski Counties. We will also look at projects in Richmond, where over the past 14 years at least, we have only done emergency projects. If we have high priority AML features anywhere in the state, we will need to have a statewide AML program.

Another area that AML is giving serious consideration to is a generic type of project called “apple cores”. These are areas where we have highwalls that follow a contour to such a degree that there is a remnant area of land or an “apple core” existing. This is an opportunity to do AML enhancement projects, completely eliminate a highwall at a much reduced cost to the agency.

We are working on a project in Dickenson County on Rakes Ridge. Through AML enhancements, we have proposed to eliminate approximately a mile of AML highwall. There is some coal that the contractor will recover that would offset some of the cost but we will have to use some AML money also.

OSM has come out with some proposed ideas to the abandoned mine land inventory policies, which we have commented on. In the Tax Relief and Health Care Act of 2006, under the AML Reauthorization, Congress suggested that Priority 1’s and 2’s can be elevated to a Priority 3 if they are ‘adjacent to’, so OSM has asked states and tribes help them define what is “adjacent to”. Our idea was a Priority 3 feature as being a third order watershed where the rules of the Priority 1 or 2 feature, we could elevate that Priority 3 feature. The third order watershed is not quite an arbitrary unit. Several of our TMDL streams are the third order watershed streams.

Congress has made it very clear that they want the predominate amount of this money set on reductions of Priority 1’s and 2’s at the end of the extension period we need to be rid of these. If we can pick up some of the Priority 3’s in the same area they would like to see that done, also. I think we can do that. The AML dedicated staff are going to work to spend all the money OSM gives us. With the money OSM has projected to give us over the life of the program, we will be able to reclaim and abate all the AML features, Priority 1’s, 2’s and those Priority 3 features that impact aquatic resources.

Our AML program is following everywhere we can the forestry reclamation approach. This is implementing the good research that has come out of Virginia Tech and the Powell River Project, University of Kentucky and West Virginia University to get new ideas on how to better reforest Title V permits and Title IV abandoned mine lands. This year we planted 18,000 trees on abandoned mine land areas and next year we hope to plant around 20,000-25,000 seedlings. We will do this to the extent possible following the forestry reclamation approach.

Ian Dye –Rulemaking

Today Director Wahlquist said he hoped to have the rule turned around in two weeks. The comment period ended Friday, August 29. He hopes that OMB will approve it and it will be published some time in mid November.

COMMITTEE BUSINESS

The next meeting of the AML Advisory Committee will be held in spring, 2009.

Meeting adjourned.

Roger Williams
DMME Abandoned Mine Land Services Manager

RLW/sgg